

REMARKS

As an initial matter, the Applicant thanks the Examiner Cang Thai and SPE John Weiss for the telephonic interview conducted on January 6, 2006 and for changing the status of the rejection of Applicant's claims from "final" to "non-final." An Interview Summary is enclosed with this Amendment and Response to Office Action.

The Office Action dated September 15, 2005 (the "Office Action") rejected all of Applicant's claims even though the reference relied on by the Examiner to reject Applicant's claims, U.S. Patent 5,577,169 (the '169 Patent), failed to disclose the claim element of a "value exchange gap." All pending claims (1, 3-4, and 9-21) are in condition for allowance because each claim includes the element of a "value exchange gap."

As rejected in the Office Action, Claims 2 and 11 both include the step of "identifying one or more **value exchange gaps** based on said mindset data [emphasis added]." The Applicant's specification defined a value exchange gap as "a gap between the value exchanged, i.e., what the constituent gives to the entity compared to what the constituent receives from the entity." See [0058]. The functionality of closing the value exchange gap between what is given and what is received is specifically disclosed in Figures 3, 7 and 9. The theme also manifests itself in Figures 2, 4, 5, and 6.

Nothing in the '169 Patent discloses the functionality of identifying gaps in the relative valuations of the parties. Both the First and Second Office Actions assert a type of "gap" that is not claimed by the applicant. The rejection of applicant's claim is based on the incorrect interpretation of "value exchange gap" that is contrary to the definition provided in paragraph [0058]. Page 4 of the Office Action provides that the "value exchange gap" refers to unavailable or unusable data. Thus, the Office Action wrongfully concluded that:

this reads over "data required to calculate a given behavior characteristic is determined to be **unavailable or unusable**, the behavior characteristic requiring the unavailable data will need to be modified to conform with more readily available data, or steps must be taken to make the required data available" [Page 4 of the Second Office Action, citing Column 9, Lines 43-48].

As discussed in the Interview, the '169 Patent cannot be the basis for a 102 rejection of Applicant's claims. Thus, claims with the "value exchange gap" element are not properly rejected.

An Interview Summary is provided with this paper. Consistent with the Interview, the "value exchange gap" element has been added to each claim, and the Applicant has added additional claim elements to describe the "value exchange gap" functionality. For example, claim 1 includes the activity of "receiving an incremental valuation for at least one constituent that relates to at least one behavior." The process for reducing the value exchange gap in claim 1 is done by "adding an exchange element between the at least one constituent and the entity."

The iterative functionality of reducing the exchange value gap by adding additional exchange elements or by adjusting exchange elements already present is disclosed in the application. "The invention enables the entity to identify exchange elements that have the most impact on the mindset of the constituent and to adjust the exchange elements in order to optimize the value exchange." See [0054]. For example, in the context of an airline-passenger relationship:

the airline can make adjustments to the exchange elements to affect the experiences and ultimately the resulting behaviors of the passenger. For example, if it were found that use of the airline club during layovers caused passengers to fly exclusively with the airline or to pay a higher fare, the airline could increase the availability of the club to more passengers, thus causing more passengers to tend to use the airline exclusively and/or to pay higher fares. [0071]

Iteratively adding or modifying exchange elements is Applicant's answer to the "disconnected economy" described in the Background of Invention section. See [0003].

By storing and acting on data at the behavior level (e.g. exchange element level) instead of the product level, the parties have more room to iteratively negotiate win-win relationships that reduce the "exchange value gap" between the two parties. Thus, all pending claims (1, 3-4, and 9-21) are in condition for allowance.

INTERVIEW SUMMARY

- (A) Exhibit/Demonstration: None
- (B) Identification of Claims Discussed: Claims 1 and 2
- (C) Prior Art Discussed: U.S. Patent 5,577,169
- (D) Principal Proposed Amendment: Applicant's counsel proposed adding the "exchange value gap" element to all independent claims. Applicant's counsel argued that the exchange value gap" as defined in the Applicant's specification related to "a gap in the value exchanged" [0059] and not "unavailable or unusable" data as was asserted in the Office Action (page 4). SPE John Weiss requested that some additional elements be added to the "exchange value gap" step to better define it. The substeps of "receiving an incremental valuation from at least one constituent that relates to at least one behavior" and reducing "the value exchange gap for the constituent providing the received feedback by adding an exchange element between at least one constituent and the entity" were NOT specifically discussed in the Interview. However, Applicant's counsel believes that these new claim elements are consistent with comments made in the Interview.
- (E) The general thrust of the principal arguments raised by Applicant's counsel is described above with respect to the Amendment. The general thrust of the discussion and arguments raised by SPE John Weiss and Examiner Cang Thai were as follows: (1) an acknowledgement that the "exchange value gap" was not disclosed in the cited patent reference; (2) a brief mention of the enablement requirement with respect to the "exchange value gap" element; and (3) a request that additional detail be added to the process steps relating to the "exchange value gap" element.
- (F) The Interview included a general review of each process step in Claims 1 and 2.
- (G) SPE John Weiss and Examiner Cang Thai acknowledged that the "final" rejection status of the Application was not proper given that the "exchange value gap" element was not disclosed in the cited prior art.

CONCLUSION

The Applicant believes that Claims 1, 3-4, and 9-21 as currently amended are in condition for allowance. The fee for a Two-Month Extension is enclosed with this paper.

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